APPEAL NO. 93154

At a contested case hearing held in (city), Texas, on January 20, 1993, the hearing officer, (hearing officer), concluded that appellant (claimant) did not suffer an injury to his left eye within the course and scope of his employment with respondent (carrier) on (date of injury). The claimant has requested our review of the hearing officer's decision indicating his disagreement with such conclusion and asserting that the branch vein occlusion in claimant's left eye was not caused solely by his preexisting hypertension, as the hearing officer found, but rather was caused by his job-related injury on (date of injury). The carrier urges the sufficiency of the evidence to merit our affirmance.

DECISION

Finding the evidence sufficient to support the hearing officer's determinations, we affirm.

Claimant testified that on (date of injury), while working as a school custodian, he lifted the corner of a desk so that the principal, JB, could slide a chair runner under the desk. He experienced a cramp in his side, put the desk down, and walked around to "loosen up," suspecting he had a tight muscle. He then attempted again to lift the desk and experienced bad chest pain which ran up into his left arm. He said he also felt hot and dizzy and thought he was having a heart attack. The school nurse was summoned, took his blood pressure, and took him to the hospital. He said he was in the hospital several days while his high blood pressure was attended to and then released. He said his eye was not checked in the hospital because he was in there for high blood pressure. However, he stated his eye was "kind of red" when he was released from the hospital. He resumed working and began to experience difficulty in reading so in February 1992 he went to an eyeglasses store for an eye exam. There he was told his left eye was bleeding and he was referred to (Dr. M) who saw him that same day. Dr. M performed a laser procedure to stop the bleeding and a later procedure to remove scar tissue. He said he has subsequently returned to his work which he can adequately perform. He denied a history of high blood pressure or of being medicated for high blood pressure previously, but did say he was once told at a physical exam that he had high blood pressure. Claimant said he had never had such problems before lifting the desk and that he still cannot see well. He thinks glasses would help his vision. He gets a monthly eye checkup but the doctor has not recommended eye glasses.

JB testified that claimant had previously discussed his chest pain which they speculated might be an ulcer or attributable to indigestion. She said they were worried about claimant at the school. Claimant did not mention an eye problem on November 20th or after being released from the hospital a few days later. Aside from mutual kidding over whether they needed eye glasses, Ms. B was unaware of claimant's having an eye problem until some months later when she saw him in the lounge with a red eye and inquired about it. Claimant responded that he "woke up that way."

The Hospital records stated that claimant, "who has been known to have

hypertension for at least the past two years, came to the emergency room with complaints of two episodes of chest pain that started on the morning of (date of injury)." The records stated that the pain occurred when claimant was at work, that he also complained of burning pain in the upper epigastric area off an on for the past several weeks which was not related to exertion and which would usually get better following a meal. These records also stated that claimant "used to take antihypertensive medicines until a few years ago," and that he was diagnosed to have peptic ulcer disease four or five years earlier. Claimant was tested, medicated, given dietary counseling, and was sent home on November 22nd in stable condition. The hospital records reflected that claimant's eyes were examined and that his conjunctiva were noted to be "slightly injected," his pupils were of normal size, equal, and reactive to light, and his fundi revealed "grade 2 hypertensive retinopathy changes." The impressions of the examining doctor were stated as "accelerated hypertension," and "rule out coronary artery disease [and] peptic ulcer disease."

The hearing officer, in his discussion of the case, said he reviewed the Merck Manual, fifteenth edition, at page 393, (which discusses the classification of hypertension into four "groups" on the basis of retinal changes), which revealed: ". . . group 2 changes are constriction and sclerosis of the retinal arterioles. Hemorrhage in the eye is a group 3 change." The hearing officer did not introduce the Merck Manual provisions as a hearing officer's exhibit nor take official notice of the Merck Manual at the hearing. We do not know whether the hospital record's reference to "grade 2" hypertensive retinopathy changes was the equivalent of the Merck Manual reference to "group 2" changes. Notwithstanding that neither party has raised an appealed issue regarding the hearing officer's reference to information outside the hearing record, we will disregard same.

Dr. M's report of December 22, 1992, stated that claimant's first examination was on February 4, 1992, and that he presented a branch vein occlusion with neo-vascularization and vitreous hemorrhage in the left eye. His visual acuity was 20/80. Dr. M performed laser photocoagulation on February 5th and on June 26th, and surgically removed a large fibrovascular proliferation on August 25th. Regarding whether the eye hemorrhage was caused by lifting a desk, Dr. M's report stated:

> According to the patient, there was no history of hypertension before lifting the desk. After lifting the desk, he developed severe hypertension and had to be hospitalized. This hypertension was the cause of the branch vein occlusion with vitreous hemorrhage.
>
> There is no doubt in my mind that the hypertension caused the branch vein occlusion. If this is was (sic) directly or indirectly caused by lifting the desk, this could have brought on the hypertension with secondary complications.

Dr. M's opinion is quite clearly tied to the premise that claimant had no history of hypertension before lifting the desk. As already noted, however, the history in the hospital records of November 22nd, presumably provided by the claimant himself, indicated a two year history of hypertension, with medications, preceding the November 20th desk lifting event. With the evidence in this posture, the hearing officer was clearly able to assign little or no weight to Dr. M's opinion and to find, which he did, that claimant had preexisting hypertension on (date of injury), which had produced changes in his left eye prior to that date, that the preexisting hypertension was the sole cause of the branch vein occlusion in claimant's left eye, and that the branch vein occlusion occurred on February 4, 1992, and was not causally related to the (date of injury) incident.

Article 8308-6.34(e) provides that the hearing officer is the sole judge not only of the relevance and materiality of the evidence, but also of its weight and credibility. As the trier of fact, the hearing officer resolves conflicts and inconsistencies in the evidence. Garza v. Commercial Insurance Co. of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The hearing officer may believe all, part, or none of the testimony of a witness (Taylor v. Lewis, 553 S.W.2d 153 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.)) and may believe one witness and disbelieve others (Cobb v. Dunlap, 656 S.W.2d 550 (Tex. App.-Corpus Christi 1983, writ ref'd n.r.e.)). Though not obligated to accept the testimony of a claimant, an interested witness, at face value (Garza, *supra*), issues of injury and disability may be established by the testimony of a claimant alone. *See e.g.* Texas Workers Compensation Commission Appeal No. 91083, decided January 6, 1992, and Texas Workers' Compensation Commission Appeal No. 92069, decided April 1, 1992. As an interested party, the claimant's testimony only raises an issue of fact for determination by the fact finder. Escamilla v. Liberty Mutual Insurance Company, 499 S.W.2d 758 (Tex. Civ. App.-Amarillo, no writ). We do not substitute our judgement for that of the hearing officer where, as here, the challenged findings are supported by sufficient evidence. Texas Employers Insurance Association v. Alcantara, 764 S.W.2d 865 (Tex. App.-Texarkana 1989, no writ). The challenged findings and conclusions of the hearing officer are not so against the great weight and preponderance of the evidence as to be manifestly unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951); Pool v. Ford Motor Co., 751 S.W.2d 629 (Tex. 1986).

The decision of the hearing officer is affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Joe Sebesta
Appeals Judge